

Stephan B. Byrd

[Certification of Stephan B. Byrd  
On 18 U.S.C. § 922(g) Illegal  
Conviction]

To: Clerk of Court  
For Post on Docket  
Criminal No.: 15-cr-00409  
(RBK)  
Civil No.: 1:23-cv-09610  
(RBK)

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY  
(Camden Vicinage)

STEPHAN R. BYRD  
Petitioner

v.

UNITED STATES OF AMERICA  
RESPONDENT

HONORABLE ROBERT B. KUHLER  
UNITED STATES OF AMERICA  
DISTRICT COURT JUDGE

Criminal No.: 15-409 (RBK)

CIVIL NO.: 1:23-cv-09610  
(RBK) [REDACTED]

[CERTIFICATION OF STEPHAN R. BYRD  
ON 18 U.S.C. § 922(g) ILLEGAL  
CONVICTION]

I, STEPHAN R. BYRD, IN NECESSITY, PROS  
DEPOSE AND STATE THAT THE FOLLOWING FACTS  
ARE TRUE AND CORRECT UNDER PENALTY OF  
PERJURY PURSUANT TO 28 U.S.C. SECT. 1746 AND  
HEREBY CERTIFIED AS FOLLOWS:

(1) I, STEPHAN R. BYRD, Depose and State  
that Counsel Teri S. Lodge Esq. Failed to argue  
on my direct appeal as of right, that I was  
illegally convicted under 18 U.S.C. § 922(g). Counsel  
Ms. Lodge argued before the district court in

the rule 35 for a new trial at Point VI, That the jury charge regarding 18 U.S.C. § 922(g) was erroneous, but failed to put all the intended facts before the district judge. Ms. Lodge would then go on to disregard the violation of my due process rights by not addressing this issue under rule 52(b) of Federal Rules of Criminal Procedure for plain error before the Third Circuit Court of APPEALS.

I, Stephan<sup>h</sup> Byrd, depose that:

2.) Counsel Teri S. Lodge Esq. failed to review the trial transcripts in full before putting forth this argument before the district Court Judge Honorable Robert B. Kugler, which allowed for an adverse ruling against the Petitioner Mr. Stephan H. Byrd. Had Counsel Teri S. Lodge read the record of trial transcripts, she would have recognized that the jury never contemplated a Fourth Element Pursuant to Reheat and its progeny.

3.) I, Stephan H. Byrd, state and depose, that at trial on April 11, 2019 the Court received a note from the jury expressing the need for clarification on the three elements. [See, Doc. 209-211, April 11, 2019, Page 102 Lines 17-21, as annexed herewith and incorporated by this reference as if fully set forth herein.]

April 11, 2019 pp. 102, Lines 17-21

17. The Court: Jury note No. 2: Can we have
18. Clarification on Count 7, especially the three elements, Page
19. 28 to 30? And then there's a bracket for today And the
20. Second: We'd like to see the requested transcript Friday
21. morning.

4D I, Stephen R. Byrd, State and Depose, that on April 11, 2019, the Honorable Robert B. Kugler brought out the jury in an attempt to bring clarity to their question on the 3 Elements. The jury would make reference to the "The part on interstate commerce". The court would provide a brief synopsis on that element, but clearly informs the jury that the government must prove that element "beyond a reasonable doubt", that is the the jurisdictional element. [See, Doc. 209-211, April 11, 2019, Page. 104 Lines 8-25, pp. 105 Lines 1-25, pp. 106 Lines 1-4.]

5D I, Stephen R. Byrd, State and Depose, that pursuant to Rehail and its progeny, 18 U.S.C. § 922(g) makes possession of a firearm unlawful when the following four elements are satisfied:

- (1) A status element ("in this case, having been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year");
- (2) A possession element ("to possess");
- (3) A jurisdictional element ("in or affecting commerce"); and
- (4) A Firearm element ("a firearm or ammunition"), 139 S.Ct. 2191, 2195-96 (2019).

The Court informs the jury "The first one, I'm not sure what it is you would like me to say about the law. If you could be more specific as to what you want me to tell you about the law of a felon in possession, that would be helpful. The problem is, you know, we're lawyers and I'm a lawyer and we deal with this legal jargon every day, so it's easy for me I can understand why legal jargon might throw you."

6.) I, Stephen G. Byrd, state and depose that my due process rights and Sixth Amendment rights were violated when the jury ask for clarification on the 3 elements, and the Government failed to inform the jury that it is 4 elements, and that it must also prove that the defendant knew he possessed a firearm and that he knew he

(4)



belonged to the relevant category of persons barred from possessing a firearm, knowledge of status element.

7) I, Stephan R. Byrd, state and Depose that the government A.U.S.A's. Tara A. Alibadi and Jason Richardson conceded to this Plain Error in Case No. 1:15-cr-00409 (RBK) Document 249, Filed 5/03/2021, Page 5 of 40, Page ID: 6483. ["While the Government concedes that the relevant jury instruction constituted Plain Error, the defendant suffered no prejudice and therefore he is not entitled to a new trial."]"]

March \_\_\_\_, 2024

Respectfully Submitted

Stephan R. Byrd  
 Stephan R. Byrd  
 U.S.M.S. 66971-050  
 U.S.P. Hazelton  
 P.O. Box: 2000  
 Brunet Mills, WV  
 26525

COIGRA8

DEPARTMENT OF CORRECTIONS

NORTHERN STATE PRISON

OTRTASTA

TRUST ACCOUNT STATEMENT

STATEMENT DATE: 01/18/2024 - 02/21/2024

SBI #: 000148365D  
LOCATION: NSP-NORTH-C3E-313T

Name: ESTEVES, BERNARDINO

DOB: 05/05/1970  
INM#: 618927

TRANSACTION DESCRIPTIONS 2101 SPENDABLE SUB ACCOUNT

DATE	LOCATION	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
02/21/2024	NSP	JPAY	AUTOPAYMENT:JPAY SETOFF_CODE:166382479	300.00	455.04

MAX & PED DATES MAY NOT BE ACCURATE